

REMARKS

Reconsideration of the application is respectfully requested for the following reasons:

1. Amendments to Claims

Independent claims 1, 15, 27, and 43 have been amended to include the respective limitations of claims 10, 22, 38 and 48, and claims 10, 22, 38 and 48 have accordingly been canceled.

Claims 2, 6, 16, 28, 29, 33, 41-43, 45-47, 49, and 50 have been amended to correct minor grammatical and idiomatic errors.

Non-elected claims 51-55 have been canceled.

Because the changes are all formal in nature, they do not involve “new matter.”

2. Rejection of Claims 1-5, 8, 9, 11-19, 23-32, 36-37, 39-47, and 50 Under 35 USC §103(a) in view of U.S. Patent Publication No. 2001/0049262 (Lehtonen) and U.S. Patent No. 5,694,467 (Young)

This rejection has been rendered moot by the incorporation, into independent claims 1, 15, 27, and 43, of the limitations of original claims 10, 22, 38, and 48.

3. Rejection of Claims 6, 7, 20, 21, and 33-35 Under 35 USC §103(a) in view of U.S. Patent Publication Nos. 2001/0049262 (Lehtonen) and 2005/0054379 (Cao), and U.S. Patent No. 5,694,467 (Young)

This rejection has also been rendered moot by the incorporation, into independent claims 1, 15, 27, and 43, of the limitations of original claims 10, 22, 38, and 48. Claims 6, 7, 20, 21, and 33-35 respectively depend from amended claims 1 and 15.

4. Rejection of Claims 10, 22, 38, 48, and 49 Under 35 USC §103(a) in view of U.S. Patent Publication No. 2001/0049262 (Lehtonen) and U.S. Patent Nos. 5,694,467 (Young) and 6,233,320 (Cohen)

This rejection is respectfully traversed on the grounds that the Lehtonen publication, and the Young and Cohen patents, whether considered individually or in any reasonable combination, discloses or suggests an MP3 player that, upon receiving a ring indicator from a mobile telephone, pauses playback of the MP3 file, establishes a conversation with the mobile phone, and provides the option of recording the conversation. Recording of the conversation is disclosed, for example, in lines 2-5 on page 20 of the original specification, and is now recited in independent claims 1, 15, 37, and 43.

The Lehtonen publication is directed to a method and system for transferring an audio signal of a call between the mobile station 22 and a headset 21 for hands-free implementation of the call. The headset 21 includes functions of an MCU and a MP3 player, with the MP3 playback function being suspended upon answering a call. In contrast, the claimed invention is an MP3 player that can receive calls from a mobile phone, and establish a conversation through the earphones and a microphone of the MP3 player. According to the invention, the MP3 player cooperates with the mobile phone, and further includes earphones. Unlike the MP3 player of Lehtonen, is not merely a headset for the mobile phone, but rather is a third element, as follows:

Lehtonen: mobile station (22) + headset incl. MP3 player

Claimed: mobile phone + MP3 player incl. transceiver + earphones/headset

In other words, the claimed MP3 or audio player is an intermediate device between a non-specific earphone or headset and a non-specific mobile phone.

Furthermore, the mobile phone/MP3 player of Lehtonen does not include the feature of a **record function**, according to which DSP processor determines whether a **record command** has been input and thereby determines whether to the conversation (or voice and sound signals from the microphone and mobile phone) should be recorded. The claimed invention is not a mobile phone, but rather is an audio or MP3 player that cooperates with a mobile phone. According to the claimed invention, the mobile phone receives a telephone call and transmits a

Serial Number 10/816,813

ringing indication to a transceiver in the player. If the user accepts the call, the conversation is transmitted from the phone to the transceiver in the player and carried out via a microphone on the player and the player's headphones. If the user presses a button, then the conversation is recorded. **This record feature is entirely lacking in Lehtonen.**

These deficiencies are not made up for by either the **Young** or **Cohen** patents. The "music source" of Young is a separate unit connected by wires to a control box, and includes no transceiver or recorder. While the Cohen patent discloses a recorder for a wireless telephone system, the recorder is not part of, and has nothing to do with, an audio or MP3 player, much less one with a transceiver as claimed. Therefore, neither the Young nor Cohen patents could possibly have suggested modification of the mobile station and/or headset of Lehtonen to be in the form of an MP3 player with a record function and a transceiver for communicating with a mobile phone, as claimed, and withdrawal of the rejection of claims 10, 22, 38, 48, and 49 under 35 USC §103(a) is respectfully requested.

Having thus overcome each of the rejections made in the Official Action, withdrawal of the rejections and expedited passage of the application to issue is requested.

Respectfully submitted,

BACON & THOMAS, PLLC



By: BENJAMIN E. URCIA
Registration No. 33,805

Date: January 9, 2008

BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, Virginia 22314
Telephone: (703) 683-0500

NWB:S:\Producer\beu\Pending Q...ZYVYUEH 816813\w01.wpd